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IN THE

Supreme Court of the United States

DAIMLERCHRYSLER CORPORATION,
Petitioner,

v.

SHERYL YSBRAND AND MARY COONEY, Individually and on behalf of all others similarly situated,
Respondents.

On Petition for a Writ of Certiorari to the Supreme Court of Oklahoma

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BRIEF OF *AMICUS CURIAE* THE MICHIGAN CHAMBER OF COMMERCE IN SUPPORT OF DAIMLERCHRYSLER CORPORATION'S PETITION FOR CERTIORARI

RAYMOND M. KETHLEDGE *
BUSH SEYFERTH & KETHLEDGE PLLC
3001 West Big Beaver Road, Suite 600
Troy, Michigan 48084

* Counsel of Record

Counsel for Amicus Curiae
The Michigan Chamber Of Commerce

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INTEREST OF THE *AMICUS CURIAE*

Amicus Curiae The Michigan Chamber of Commerce ("The Michigan Chamber") represents the interests of thousands of businesses and professional associations in Michigan. Its purpose is to promote favorable economic conditions in Michigan. In order for those conditions to prevail, however, the laws of the State must be administered in a manner predictable to persons and businesses within it. The Judgment of the Oklahoma Supreme Court frustrates that purpose for the reasons explained below. The Michigan

Chamber therefore urges that this Court grant the petition for a writ of certiorari.[1]

REASONS FOR GRANTING THE WRIT

In an Judgment dated February 25, 2003, the Oklahoma Supreme Court affirmed the Sequoyah County District Court's certification of a nationwide class of plaintiffs, including plaintiffs in Michigan. The putative class thus includes claims brought by Michigan plaintiffs against a corporation with its principal place of business in Michigan, for conduct that occurred entirely within Michigan. According to the Oklahoma Supreme Court's holding, moreover, Michigan law is to govern all of the class members' claims. Thus, under that holding, the Sequoyah County District Court is to adjudicate claims brought by Michigan plaintiffs against a Michigan-based corporation, applying Michigan law. The Michigan Chamber respectfully requests that this Court issue a writ of certiorari, so that these claims may ultimately be adjudicated by Michigan Courts, not Oklahoma ones.

1. As defined by the Sequoyah County District Court, the putative class includes "entities and adult persons domiciled or residing in any of the fifty states of the United States of America or in the District of Columbia[.]" App. 24a-25a. The putative class thus includes Michigan residents. DaimlerChrysler has its principal place of business in Auburn Hills, Michigan. Moreover, in its February 25, 2003 opinion affirming the District Court in part, the Oklahoma Supreme Court held that Michigan law applies to all of the putative class members' claims. This case would therefore present the anomaly of Oklahoma Courts adjudicating claims brought by Michigan residents against a Michigan-based corporation, applying Michigan law.

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[1] Per the consent letters filed with this brief, all the parties have consented to the filing of the brief.

2. The Michigan Chamber respectfully submits that claims such as these—that is, claims brought by Michigan plaintiffs against a Michigan-based corporation and governed by Michigan law—should be adjudicated by Michigan Courts, not Oklahoma ones. These claims involve the purely intra-state affairs of the State of Michigan. There is no need for the Sequoyah County District Court to inject itself into their adjudication. To the contrary, Michigan Courts are plainly competent to handle them; indeed, that is why there are civil courts in Michigan.

a. Several concerns warrant specific mention in this regard. The first relates to the self-government of the people of the State of Michigan. Michigan's voters, through their elected representatives, have established and maintained a state judiciary whose structure and manner of selection is carefully delineated in Michigan's Constitution and statutes. *See Michigan Constitution* Art. 6; M.C.L.A. § 600.101 *et seq.* Among other things, Michigan law provides that its state judiciary shall include a Supreme Court, intermediate Courts of Appeal, and trial courts. *See Michigan Constitution* Art. 6; M.C.L.A. § 600.101 *et seq.* In addition, the Justices of the Supreme Court, and Judges of the lower courts, are accountable to the citizens of Michigan in nonpartisan elections held at the expiration of specified terms. *See Michigan Constitution* Art. 6; M.C.L.A. § 600.101 *et seq.*

Claims brought by Michigan residents against a Michigan-based corporation under Michigan law fall in the heartland of claims to be adjudicated by Michigan Courts. Under Michigan's Constitution and statutes, therefore, these claims are to be adjudicated by a state judiciary that in turn is accountable to the voters of Michigan.

This measure of democratic accountability is frustrated by the Judgment of the Oklahoma Supreme Court. Rather than have intrastate claims adjudicated by courts answerable to the voters of Michigan, the Judgment would have these claims

adjudicated by Oklahoma Courts, which are not. In a nation where self-government is a defining value, this concern is a serious one.

b. Second, and relatedly, the Judgment below runs contrary to principles of federalism. As the U.S. Supreme Court has observed, a State has no business regulating the internal affairs of another State. *See, e.g., BMW v. Gore,* 517 U.S. 559, 572 (1996) ("Alabama does not have the power . . . to punish conduct that was lawful where it occurred and that had no impact on Alabama or its residents"). The Seventh Circuit recently cited this very concern in reversing a certification order for a nationwide class in another automotive products-liability case. *See In re Bridgestone/Firestone, Inc.,* 288 F.3d 1012, 1020 (7th Cir. 2002) (nationwide class approach does "violence not only to Rule 23 but also to principles of federalism"), *cert. denied sub nom Gustafson v. Bridgestone/ Firestone, Inc.,* 537 U.S. 1105 (2003). Here, as shown above, the claims of Michigan class members involve only intrastate matters in Michigan. Respect for our federal system, therefore, dictates that these claims should be adjudicated in Michigan.

c. The Judgment below also creates practical concerns for Michigan residents and businesses. As an initial matter, if purely intrastate claims are now to be subject to the jurisdiction of courts like those in Sequoyah County, Michigan residents and businesses will face considerable uncertainty regarding the procedures by which their rights and interests will be adjudicated. The concern here lies not with the substantive law to be applied, but rather with the procedural rules that bind courts and litigants alike in adjudicating a particular claim. These rules can powerfully affect the course and outcome of litigation; and they include, for example, the rules governing class certification itself. The Michigan and Oklahoma rules governing class certification differ in material respects, *compare* 12 Okl. St. Ann. 2023(A), (B) *and*

M.C.R. 3.501, as do many other procedures directly or indirectly affecting parties' rights. If allowed to stand, therefore, the Judgment of the Oklahoma Supreme Court will create a new measure of uncertainty for Michigan residents and businesses concerning the procedures by which their rights will be adjudicated.

In summary, the citizens of the State of Michigan, through their elected representatives, have created a state judiciary answerable to them and having procedures of their own choosing. That judiciary was intended to adjudicate claims brought by Michigan residents against Michigan corporations under Michigan law. It is unwarranted and inappropriate for the courts of Oklahoma or any other State to frustrate this intention by injecting themselves into Michigan's intra-state affairs.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

RAYMOND M. KETHLEDGE *
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3001 West Big Beaver Road, Suite 600
Troy, Michigan 48084

* Counsel of Record

Counsel for Amicus Curiae
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